

Asbestos in schools
The need for action

**All-Party Parliamentary
Group on Occupational
Health and Safety**

Introduction

Exposure to asbestos fibres can cause both lung cancer and another fatal cancer of the lining of the lung called mesothelioma. Even low levels of exposure can cause mesothelioma and every year over 4,000 people die as a result of past exposure to asbestos. The disease is invariably fatal with most victims dying within 18 months of diagnosis. It often does not appear until around 40 years after the person first breathes in the dust.

However, it is not a problem that is confined to industrial workers, nor is it a problem of the past. More than 75 per cent of Britain's state schools contain asbestos. Much of that is badly maintained, meaning that children and staff are exposed to this killer fibre. Over 140 school teachers have died from mesothelioma in the past ten years. An unknown number of cleaners, admin staff and caretakers have also died. The number of children who have died as a result of exposure to asbestos while at school is unknown but in the US it was estimated that for every teacher's death nine children will die. That would mean that over 100 people die every year in the UK as a result of exposure when they were at school.

While we cannot do anything about the past exposure, we can prevent any more children and staff being exposed to asbestos.

This report, from the All-Party Parliamentary Group on Occupational Safety and Health, investigates the scale of the issue and makes recommendations about stopping this time-bomb in our schools.

The scale of the problem

A report commissioned by the Medical Research Council (MRC) examined the extent, type and location of asbestos in schools and concluded that “It is not unreasonable to assume, therefore, that the entire school population has been exposed to asbestos in school buildings.”

Of the 33,600 schools in Britain, more than 75 per cent contain asbestos. Fourteen thousand schools were built after the second world war and almost all those built before 1975 contain asbestos. Most of the other schools were refurbished during this period and also contain asbestos.

The materials of greatest concern are those that readily release asbestos fibres such as asbestos lagging, sprayed asbestos and asbestos insulating board (AIB), all of which are present in schools. It is not only found in lagging in pipes and boiler rooms, it was also sprayed on ceilings and structural beams or used extensively in the construction of schools in walls, ceilings, heating baffles, window and door surrounds, with much of it in locations that are vulnerable to damage by the children.

The MRC report assessed lifetime asbestos exposures and estimated the numbers of asbestos fibres inhaled by a child during their time at school with the asbestos being in good condition. It concluded that everyday background asbestos fibre levels in schools are five to five hundred times greater than outdoor levels. The report stated “Children attending schools built prior to 1975 are likely to inhale around three million respirable asbestos fibres ... Exposure to asbestos in school may therefore constitute a significant part of total exposure.”

In 2011 the Supreme Court accepted the Industrial Injuries Advisory Council’s definition of a “significant” exposure as being “a level above that commonly found in the air in buildings and the general outdoor environment” and that an exposure above that would materially increase the risk of mesothelioma developing. Both it and the government’s advisory committee on science also accepted the expert medical, epidemiological and legal opinion that “there is no known threshold exposure to asbestos below which there is no risk.”

The need for action

Many school staff and pupils have inhaled considerably more fibres than estimated in the MRC report as frequent asbestos incidents in schools have released dangerous levels of asbestos fibres into classrooms. Asbestos management concentrates on preventing maintenance work disturbing the asbestos; however, tests have shown that common everyday classroom activities can also release dangerous levels of asbestos fibres. It was discovered in 1987 that slamming a door just five times released levels of amosite fibres more than six hundred times greater than background levels, despite the fact that the AIB panels around the door appeared to be in good condition. As no warning was issued to the thousands of other schools with potentially the same problem, the release of asbestos fibres continued.

Twenty years later, in 2006, the problem was re-identified. When the doors were slammed and walls and columns were hit in system-built schools the asbestos fibres ejected into the classrooms were at levels eight hundred times greater than background levels. Other tests have shown that removing books from a classroom stationary cupboard with an AIB back releases levels one hundred times greater than background levels, as does displaying the children's work with drawing pins or staples, a practice that was common in schools. In some schools these releases of asbestos fibres have occurred every day over the course of many years so that the cumulative exposures of staff and pupils are considerable. The result is that the occupants of schools are dying from the asbestos-related cancer mesothelioma.

Britain's death toll from asbestos

Britain has the highest mesothelioma incidence in the world, at more than twice that of France, Germany or the USA. An HSE report concluded that is because of the quantity and types of asbestos that Britain imported, but all types of asbestos can cause mesothelioma.

The incidence of mesothelioma in the USA has stabilised at about 14 per million per annum since 1999 whereas in Britain it has increased year on year and is presently 37.8 per million per annum. Twice as many people die from asbestos exposure in Britain as are killed on the roads.

As the asbestos materials deteriorate the number of school teachers dying from mesothelioma has increased, from three a year in the 1980s to 16 a year in the latest period. More than 228 school teachers have died of mesothelioma since 1980, with 140 dying in the last ten years. School caretakers, cleaners, cooks, secretaries, teaching assistants and nursery nurses have also died of the cancer.

Schools are a special place because they contain children. Children are more at risk from the dangers of asbestos than adults as they will live longer for any asbestos disease to develop. It has been estimated that a child of five is 5.3 times more likely to develop mesothelioma by the age of 80 than their teacher aged 30. It is also thought that they are at greater risk because their bodies are still developing, which may make their lungs more vulnerable. The DOH's Committee on Carcinogenicity is assessing the relative vulnerability of children to asbestos. This assessment is long overdue and the conclusions should provide the basis for future asbestos policy in schools.

Everyone attends school, so the numbers facing potential exposure are much larger than in any other workplace. Although it is known how many teachers have died it is not known, because of the long latency, how many children have subsequently died. The teachers' deaths are therefore the tip of the iceberg.

In March 2011 the Supreme Court unanimously upheld a judgement in the case of Dianne Willmore that she had been negligently exposed to asbestos at school as a child. This is the first case successfully taken through the courts of a former pupil exposed to asbestos at school.

The USA estimated that for every teacher's death there would be nine subsequent deaths of the children as a direct result of asbestos exposure at school. In Britain that would proportionately equate to some two thousand former pupils who have died of mesothelioma so far.

However, an unknown number of children will develop mesothelioma in future years because of past exposure.

Managing asbestos in schools

Government policy is that, so long as the asbestos is in good condition and not likely to be disturbed, it is better to manage it for the remaining life of the school rather than remove it. Because of this policy most of the asbestos remains in our schools and will have to be managed long into the future. Although some schools and local authorities have effective systems of asbestos management, many do not. A nationwide survey published in 2010 of more than 600 school safety representatives showed that only 28 per cent of respondents said the presence of asbestos-containing materials (ACM) was clearly marked in the workplace. When it comes to keeping an accurate register of where asbestos is, only one third of respondents were aware that a register was kept, and only 20 per cent of the total sample confirmed that the register was shown to contractors before they commenced work.

Inspections carried out over the last five years have found flaws in asbestos management in a number of schools that have required advice and enforcement action to be taken. Common faults include a lack of asbestos awareness and poor standards of training; asbestos management plans have been found to be ineffective; there has been confusion over areas of responsibility; and the less accessible asbestos has frequently not been identified because of inadequate surveys. A report by the Asbestos Consultants Association concluded that the systems of asbestos management in many schools are ineffective and at times dangerous. They stated: "These are not minor problems that have crept in over recent years; rather they are fundamental problems that are endemic in schools in the UK."

The other problem with the policy is that the asbestos is often not in good condition, or it is unsealed and hidden. Tests have shown it can be disturbed by normal school activity and asbestos fibres released over the course of many years without anyone being aware of that. No doubt these schools thought that they were managing their asbestos safely, whereas in reality they were not.

Training

If headteachers, bursars and school managers are expected to manage asbestos then they have to be trained. In addition all members of teaching and support staff need to be trained in asbestos awareness so that they can avoid disturbing asbestos in their schools and can also prevent pupils doing so. It is equally important that those officials who supervise and allocate resources are trained so that they are aware of their responsibilities under the law and aware of the level of resources that are needed to manage the asbestos safely. This includes governors and the relevant officials in local authorities. Training should be in either asbestos management or asbestos awareness and tailored to the individual's role.

The DfE is presently designing basic web-based asbestos awareness training; however, it will not be mandatory and it is inadequately funded.

It is recommended that standards should be set and the training should be mandatory. The training should be properly funded.

Phased removal is necessary

Some schools do have well resourced systems of asbestos management, but even the best system of asbestos management can fail, and when it does asbestos fibres can be released and the occupants exposed.

As well as the ever-present potential for fibre release, effective asbestos management in a school can be expensive, time-consuming and requires a sustained commitment. Even the most simple task such as cleaning a light fitting attached to a ceiling that contains asbestos has to be performed in controlled conditions with the person wearing protective overalls and a mask, as does painting a wall that contains asbestos or drilling a screw hole to hang up a picture.

In the 1980s the Association of Metropolitan Authorities and ILEA had a policy of phased removal with priority being given to the most dangerous materials. It was because they considered it is safer and,

The need for action

in the long run, also cheaper than the continual drain on resources that effective management requires. The practice stopped when the organisations ceased to exist; however, phased removal remains the policy of Nottinghamshire, which has a large number of schools containing asbestos.

It is recommended that the phased removal of asbestos is adopted as national policy with priority being given to the most dangerous materials. That will result in the problem being eventually resolved, whereas if it is not adopted as policy then asbestos will remain a problem in schools indefinitely. It will then be a continual drain on resources and there will be the ever present potential for the asbestos to be disturbed and fibres released.

Regulations

Twenty five years ago the US Government undertook an audit of the asbestos in their schools and assessed the risks to the occupants. Because of the particular vulnerability of children they treated schools as a special place and promulgated asbestos regulations specifically for them. The regulations and accompanying codes of practice clearly lay out what is required of school authorities, and because of their specific nature there is no ambiguity about what applies to schools and what does not.

The asbestos problem in UK schools is far greater than in the USA but despite the considerably greater risks in UK schools the issue is not seen as a high priority. Regulations have not been drafted specifically for schools, but instead they come under the generic regulations and Approved Codes of Practice (ACoPs) of all workplaces. It is right that the workers in schools have the same protection as other workers but regulations have mainly been drafted for people who work on asbestos, such as maintenance workers, and only by default apply to the occupants of the buildings. This has at times led to confusion and ambiguity so that government officials, local authorities and school authorities have been unsure what applies to schools and what does not.

Codes of Practice and guidance have to be clearly drafted so that a busy headteacher knows immediately which regulations apply to them and which do not, what they and their staff have to do to comply with the law and what actions they need to take to keep the staff and pupils safe from the dangers of asbestos. Because the asbestos guidance is also generic it can be equally unclear what actions schools should take to manage their asbestos effectively, and how much is their responsibility, how much the local authorities and how much any contractors. Asbestos guidance drafted specifically for schools would give busy headteachers a one-stop guide on best practice and how to manage their asbestos practically and safely.

This problem has recently been compounded by the DfE removing their Teachernet website which did give specific health and safety guidance for schools. Instead school authorities now have to refer to the generic HSE guidance, which, although very good, is not always aimed at a school environment. The situation is becoming worse as the HSE infoline, which offered free advice, has been withdrawn so that if a school has a problem they will no longer be able to resolve it by obtaining the expert guidance the helpline provided.

However it is not just the guidance on the regulations which need to be looked at but actual regulations themselves.

If a school finds out that contractors, staff and pupils are being exposed to asbestos they have to take certain actions depending on the level of exposure. There are a number of these. There is a Control Limit and a Clearance Level, and in certain circumstances an Action Level is still applied to the occupants of schools.

The Action Level was a workplace level that applied to asbestos contractors where measures to monitor their health came into force. It was a cumulative exposure of 240 hours at the Control Limit, and, if the Control Limit is likely to be exceeded, the law is that contractors have to wear breathing apparatus and protective clothing as it is acknowledged

The need for action

that it is not a safe level. The Action Level is considerably higher and is a dangerous level for adults, let alone for children.

Following a release of asbestos fibres in a school, staff and pupils are allowed back in the classroom when the airborne asbestos fibre levels are below the Clearance Level (a tenth of the present Control Limit.) However that is not a safe level either as the occupants will inhale 6,000 fibres an hour. As far back as 1983 the Department for Education considered a proposal for an “environmental” limit given that teachers and pupils could be sitting breathing in that level of asbestos for six or seven hours a day. It recommended that, because of the particular vulnerability of children, a level 1/100th of the workplace control levels would not be unreasonable in schools. But an environmental level was never introduced, and instead workplace control levels are still applied to classrooms.

In reality many schools do not know the levels of asbestos fibres that people in their buildings are exposed to. However, even where staff and children are known to have been exposed to asbestos the staff and the parents have not always been told of their exposure because the level did not exceed the Action Level. Advice has also been given to local authorities that the staff and pupils’ exposure need not be entered in their medical records as it had not exceeded the Action Level, despite this running contrary to expert medical guidance.

It is recommended that DfE and HSE jointly develop asbestos guidance specifically for school and that current standards be reviewed.

Policy of openness

Most people are not aware of the presence and dangers of asbestos in schools and what measures should be taken to prevent fibre release. This is because the problem has been played down and when an incident does occur unjustified assurances have been given. It is also common that parents are not informed of the presence of asbestos in their children’s schools, and a survey found that more than half of school staff were not informed either. In contrast, twenty five years ago laws were passed in the USA that parents and teachers must be given an annual report on

the presence and condition of asbestos in their school and the measures taken to manage it. If the problem of asbestos in schools is to be properly addressed in this country a policy of openness is essential and has to be adopted without further delay. It is not only ethically wrong that staff and parents are not informed of the presence of asbestos, in the case of the staff it is also contrary to good practice and against the law.

It is recommended that parents, teachers and support staff are annually updated on the presence of asbestos in their schools and the measures that are being taken to manage it.

Civil action and justice for victims

Another factor that militates against leaving the asbestos in place is that there is the ever present threat of the governors, headteacher or local authority being prosecuted for a failure in asbestos management, and this has happened on a number of occasions. In free schools and academies the responsibility is that of the governors who might be reluctant to take on the role if they fully realise the legal and financial implications.

Most mesothelioma sufferers, and their families, would like the HSE, or the police, to investigate how and why they were exposed and where there was negligence, to bring the full force of the criminal law against the people who caused the illness leading to their death. However none of the 40,000 mesothelioma deaths have been the subject of a criminal investigation. Neither has there been a single criminal prosecution brought against the individuals or organisations who caused the deaths.

As a result, when people are diagnosed with mesothelioma they and their families seek to identify themselves how the exposure to asbestos occurred. If negligence is found then the only recourse to justice is through the Civil Courts, and the only remedy open to the Civil Courts is financial damages. While that can never compensate for the death of a loved one it can provide some financial stability for any dependants.

The need for action

Although it is particularly difficult to bring a successful civil action against a school for causing a death from mesothelioma, as in many cases staff and pupils have been unaware that asbestos exposure has taken place, there have also been a number of successful cases where substantial damages have been awarded to teachers and support staff whose mesothelioma was caused by asbestos exposure at school. So far the courts have only judged one case of a former pupil. There are, however, other staff and former pupils who are dying of mesothelioma who are presently embarking on civil actions. It is inevitable that this will continue as long as there is asbestos in schools.

Because of the potential for substantial legal damages for causing the death of people in their care, it is increasingly more difficult for schools and local authorities to obtain asbestos-related insurance cover, and, when available, the premiums are expensive. If the asbestos is removed the threat of litigation, the drain on resources in managing the asbestos and the expense of insurance cover is also removed for ever.

Why inspections are important

The poor standards of asbestos awareness and asbestos management in schools were first identified because of the proactive inspections that were carried out, and advice was given so that standards could be improved. In contrast a few years ago very few pro-active inspections took place in schools and therefore the faults were not identified until it was too late. Because most inspections were reactive and triggered by an incident occurring, the contractors, staff and pupils had already been exposed to the asbestos.

Lord Young's report into health and safety regulation, Common Sense Common Safety, declared that schools were a low-risk environment, and this has been used as a basis for government policy. It appears that this definition was based solely on fatality rates from injuries, but totally ignored diseases caused by work, including cancers caused by asbestos exposure. Because asbestos is present in the majority of schools, many millions of vulnerable children and staff working in the schools

will remain potentially at risk for the foreseeable future. It is therefore unjustified to classify schools as a “low-risk environment.”

In March 2011 the government announced it will no longer undertake proactive inspections in workplaces it has defined as “low risk.” These include offices, shops and schools. This is a retrograde step and will mean that unsafe standards will again pass undetected in many schools, leaving staff and pupils at risk. A policy of cost recovery for inspections is also proposed by the HSE where enforcement action is required; however, the HSE states that “law-abiding businesses will be free from costs and not have to pay a penny.” Schools would not therefore be charged for proactive inspections unless they fail to comply with the regulations. It is recommended that pro-active inspections to determine the standards of asbestos management are reinstated.

Much better information is needed

Asbestos materials are part of the structure of a building and therefore if the building is in a poor state then invariably so is the asbestos it contains. The Schools Capital Review published in April 2011 stated that “Significant parts of the school estate were and are in an unacceptable state.” According to the Chief Executive of the Government’s Partnership for Schools, 80 per cent of the school stock is beyond its shelf life, and a Financial Times report quoted DfE estimates of an £8.5bn backlog of repairs. But even the most basic repairs are impeded by the presence of asbestos, and when schools are refurbished or replaced considerable cost overruns have occurred through unexpected asbestos remedial and removal work, with at times the asbestos work costing a third or more of the refurbishment costs.

Despite asbestos potentially presenting one of the largest costs in refurbishment or maintenance, the government is unaware of the extent of asbestos in the nation’s schools. However, each local authority already holds the data on the extent, type and condition of asbestos in their schools, and therefore it would be a relatively simple matter, and sound financial practice, to collate the data centrally. It would enable the government to make realistic funding estimates and to allocate

The need for action

proportionate resources. It would also enable it to produce a priority list for refurbishment or replacement of those schools presenting the greatest risk to their occupants.

The government has stated that it will prioritise the most dilapidated schools for refurbishment. However, it is presently unaware which schools are most in need. The Schools Capital Review (2011) was critical that there is no centrally collated data on the condition of the school stock in England, and recommended that the DfE “urgently needs to build up a better picture of the condition of the educational estate that it funds the first step should be to collate all existing information sources and to establish a simple, well-designed database to manage this information.” The government has accepted this recommendation; however, it has specifically excluded asbestos from the audit.

It is recommended that data is centrally collated on the extent, type and condition of asbestos and this is an integral part of the data collection of the condition of the nation's schools.

Conclusion

It is clear that, at present, there are serious deficiencies in the way that asbestos is managed in schools. In part this is because a number of different government departments are responsible for the issue, not all of which come under the remit of occupational safety in respect of workers. There is also a view that successive governments have seen the issue as ‘too big to handle’. The longer the issue remains unaddressed the more people will be exposed. The long term cost to the state will continue to grow and the bill will have to be picked up by future generations, just as we are now seeing the cost of what happened in the 1950s, 60s and 70s. There is a need for both greater coordination of work in this area, but more importantly a long-term strategy that is aimed at eradicating the problem once and for all.

Recommendations

The All-Party Group recommends that:

- The Government should set a programme for the phased removal of asbestos from all schools, with priority being given to those schools where the asbestos is considered to be most dangerous or damaged.
- Standards in asbestos training should be set and the training should be mandatory. The training should be properly funded.
- It is recommended that the DfE and HSE jointly develop asbestos guidance specifically for schools and that current standards be reviewed.
- A policy of openness should be adopted. Parents, teachers and support staff should be annually updated on the presence of asbestos in their schools and the measures that are being taken to manage it.
- Pro-active inspections to determine the standards of asbestos management should be reinstated, with a view to reducing future costs.
- Data should be collected centrally on the extent, type and condition of asbestos in schools and this becomes an integral part of the data collection of the condition of the nation's schools.

